IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 14811 of 2004

Between:

Smt. P. Nirmala Kumari, W/o. Syam,
aged about 32 years, Secondary Grade Assistant Teacher, Lutheran High School, Peddapuram,

East Godavari District.

..... PETITIONER

AND

1.The Regional Director of School Education, Mehat Nagar,

Kakinada, East Godavari District.
2.The District Educational Officer, Main Road, Kakinada,

East Godavari District.
3.The Andhra Evangelical Lutheran Church, rep. by its Chairman,

Board of Secondary Education, an Educational Society,

Registered under Societies Registration Act, Brodipet,

Guntur, A.P.
4.The Correspondent /Head Master, Lutheran High School, Main

Road, Peddapuram, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not paying the petitioner salary and not considering the petitioner's representation dt. 18.09.2001 pending before the 2nd respondent, as illegal, arbitrary and contrary to the Government rules and

against the principles of natural justice and consequently direct the respondents to pay the salary from the date of the petitioner joining i.e., dt.24-2-2001 in the 4th respondent school and fix the time scale as per procedure.

Counsel for the Petitioner: Mr.S.SURENDRA KUMAR

Counsel for the Respondent Nos.1&2 : GP FOR SCHOOL EDUCATION

Counsel for the Respondent Nos.3 & 4: None appeared.

The Court at the stage of admission made the following :

THE HONOURABLE DR.JUSTICE G.YETHIRAJULU

WRIT PETITION No.14811 OF 2004

ORDER:

The petitioner is working as a Secondary Grade Assistant Teacher in the fourth respondent school. The petitioner submits that she was appointed as a Secondary Grade Assistant Teacher on 23.12.2000 by the third respondent and she joined the fourth respondent school on 24.02.2001 and has been discharging the duties to the satisfaction of respondents 3 and 4. The petitioner further submits that her appointment was approved by the first respondent through the proceedings dated 22.12.2000. But, to her misfortune, the respondents 3 and 4 are not paying salary to her from the date of her assuming charge. The petitioner made representations to the second respondent on 18.09.2001 and no orders have been passed on the said representation. Therefore, the petitioner approached this Court seeking a direction to the respondents to pay salary from the date of her joining i.e. 24.02.2001 in the fourth respondent school and fix the time scale as per the procedure.

2. The learned Government Pleader for the respondents 1 and 2 represented that the petitioner was appointed as a Secondary Grade Assistant Teacher in the vacancy of one Mr.K.Z.M.Santhi Raju, who was promoted as B.Ed. Assistant. But, as the promotion of said Mr.K.Z.M.Santhi Raju is challenged by another candidate through a writ petition covered by W.P.No.4501 of 2001 and as the said writ petition is pending, the promotion of said Santhi Raju could not be approved by the competent authority, therefore, the respondents are not in a position to pay the salary to the petitioner.

3. It is the case of the petitioner that she assumed charge as a Secondary Grade Assistant Teacher on 24.02.2001 and has been discharging the duties of a

Secondary Grade Assistant Teacher in the fourth respondent school, which is under the management of the third respondent. In the event of the Court holding that the promotion of Mr.K.Z.M.Santhi Raju is not according to rules, it is for the third respondent to pass appropriate orders in respect of the service of petitioner, but they are supposed to pay the salary to the petitioner for the work extracted from her in pursuance of the appointment order given to her, which was duly approved by the first respondent.

4. In the light of the above circumstances, the respondents 3 and 4 are directed to pay salary to the petitioner due from 24.02.2001 by obtaining necessary orders from the second respondent for the work extracted from her as a Secondary Grade Assistant Teacher irrespective of the pendency of the writ petition regarding the promotion of Mr. K.Z.M.Santhi Raju. The respondents 3 and 4 shall continue to pay the salary of the petitioner so long as they extract the work from her. The second respondent shall accord sanction for the payment of salary of the petitioner for the period of work extracted from her. The third respondent may also consider whether the petitioner can be accommodated in any other school under its control as per the consent given by the petitioner.

5. The Writ Petition is accordingly disposed of. No order as to costs.

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Dr.G.YETHIRAJULU,J

Date:15th September, 2004.

Cs/KM

NOTE:

Issue C.C. in two days.

(B/O)

CS/KM

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1.The Regional Director of School Education, Mehat Nagar,

Kakinada, East Godavari District.

2. The District Educational Officer, MainRoad, Kakinada,East

Godavari District.

3. The Chairman, The Andhra Evangelical Lutheran Church, Board

of Secondary Education, an Educational Society, Registered

under Societies Registration Act, Brodipet, Guntur, Andhra

Pradesh.

4. The Correspondent/Head Master, Lutheran High School, Main

Road, Peddapuram, East Godavari District.

5. Two C.Cs. to the Government Pleader for School Education,

High Court Buildings, Hyderabad. (O.U.T.)

6.. Two C.D. copies.